

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Thomas M. Johnson

Case No. 3:06 CV 132

Petitioner,

MEMORANDUM OPINION
AND ORDER

-VS-

JUDGE JACK ZOUHARY

Khelleh Konteh, Warden,

Respondent.

The Court has reviewed the Report and Recommendation of the Magistrate Judge (Doc No. 17) filed February 28, 2007. Under the relevant statute (28 U.S.C. § 636(b)(1)(C) (1982)):

Within ten days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.

In this case, the ten-day period has elapsed and no objections have been filed. The failure to file written objections constitutes a waiver of a *de novo* determination by the district court of an issue covered in the report. *United States v. Sullivan*, 431 F.3d 976, 984 (2005).

The Court adopts the Magistrate Judge's Report and Recommendation (Doc. No. 17) in its entirety. Petitioner's Petition for Writ of Habeas (Doc. No. 1) is dismissed for lack of prosecution.

Petitioner has failed to show the existence of any set of facts upon which he could prevail. Accordingly, under 28 U.S.C. § 1915(a), the Court certifies that an appeal of this action could not be

taken in good faith. Further, as Petitioner has failed to make a substantial showing of the denial of a constitutional right, no certificate of appealability shall issue

IT IS SO ORDERED.

s/ Jack Zouhary
JACK ZOUHARY
U. S. DISTRICT JUDGE

March 26, 2007